

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CHRISTINA PORTER, o/b/o C.L.T.R., : CIVIL ACTION NO. 1:17-CV-1813

:
Plaintiff : (Chief Judge Conner)

v.
:
:

**NANCY A. BERRYHILL, Acting
Commissioner of Social Security,**
:
:

Defendant :

ORDER

AND NOW, this 22nd day of June, 2018, upon consideration of the report (Doc. 16) of Magistrate Judge Martin C. Carlson, recommending the court vacate the decision of the administrative law judge denying the application of plaintiff Christina Porter (“Porter”), on behalf of minor child C.L.T.R., for supplemental security income, and remand this matter for further proceedings, wherein Judge Carlson opines that the administrative law judge’s failure to acknowledge, address, or in any way analyze the testimony of Porter with respect to her minor child’s functional limitations contravenes the cardinal principle that an administrative law judge “must specifically identify and explain what evidence he found not credible and why he found it not credible,” (see Doc. 16 at 19-23 (quoting Adorno v. Shalala, 40 F.3d 43, 48 (3d Cir. 1994))), and that such error cannot be deemed harmless, (see id.), and it appearing that neither Porter nor the Commissioner of Social Security (“Commissioner”) object to the report, see FED. R. CIV. P. 72(b)(2), and that the Commissioner expressly waived the opportunity to do so, (see Doc. 17), and the court noting that failure to timely object to a magistrate judge’s conclusions “may

result in forfeiture of *de novo* review at the district court level,” Nara v. Frank, 488 F.3d 187, 194 (3d Cir. 2007) (citing Henderson v. Carlson, 812 F.2d 874, 878-79 (3d Cir. 1987)), but that, as a matter of good practice, a district court should “afford some level of review to dispositive legal issues raised by the report,” Henderson, 812 F.2d at 878; see also Taylor v. Comm'r of Soc. Sec., 83 F. Supp. 3d 625, 626 (M.D. Pa. 2015) (citing Univac Dental Co. v. Dentsply Int'l, Inc., 702 F. Supp. 2d 465, 469 (M.D. Pa. 2010)), in order to “satisfy itself that there is no clear error on the face of the record,” FED. R. CIV. P. 72(b), advisory committee notes, and, following review of the record, the court being in agreement with Judge Carlson’s recommendation, and concluding that there is no clear error on the face of the record, it is hereby

ORDERED that:

1. The report (Doc. 16) of Magistrate Judge Carlson is ADOPTED.
2. The Clerk of Court shall enter judgment in favor of plaintiff Christina Porter, on behalf of minor child C.L.T.R, and against the Commissioner of Social Security (“Commissioner”) as set forth in the following paragraph.
3. The Commissioner’s decision is VACATED and this matter is REMANDED to the Commissioner with instructions to conduct a new administrative hearing, develop the record fully, and evaluate the evidence appropriately in accordance with this order and the report (Doc. 16) of Magistrate Judge Carlson.
4. The Clerk of Court is directed to CLOSE this case.

/S/ CHRISTOPHER C. CONNER

Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania